

REMARKS

Claims 63-76 and 78 are currently pending in the application. Applicants request reconsideration of the application in light of the following remarks.

Rejections under 35 U.S.C. 102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 63, 65-69, 71 and 73-76 were rejected under 35 U.S.C. 102(b) as being anticipated by Headley (U.S. Patent No. 5,642,903, hereinafter "Headley"). Applicants respectfully traverse this rejection and request reconsideration of the claims.

Independent claim 63 recites a "pressurized container comprising: . . . a unitary aluminum member comprising an aluminum housing and an aluminum closure member integrally formed as a unitary piece" Independent claim 71 recites a "method of forming a pressurized container, the method comprising . . . integrally forming as a unitary piece an aluminum member comprising an aluminum housing and an aluminum closure"

Headley discloses a one-piece container made of metal, preferably steel or Aluminum (col. 2, lines 24-25). Headley also discloses, with reference to FIG. a rupturable closure 80 that is attached to the container by a weld 84, the closure being made of a metal material such as steel for a steel container or aluminum for an aluminum container. *See* col. 3, lines 3-19. Headley states of the container/closure relationship that, "The container 40, the closure 80 and the weld 84 thus cooperate to define and seal the chamber 42." *See* col. 3,

lines 14-16. Because the container and closure of Headley are formed separately and welded together, Headley does not disclose “a unitary aluminum member comprising an aluminum housing and an aluminum closure member integrally formed as a unitary piece” as recited by independent claim 63. Similarly, because Headley’s method of forming its container and closure member requires welding, Headley does not disclose a method of forming the method of forming comprising “integrally forming as a unitary piece an aluminum member comprising an aluminum housing and an aluminum closure” as recited by independent claim 71.

Because Headley does not disclose every element of independent claims 63 and 71, Headley does not anticipate those claims. Dependent claims 65-69 and 73-76, which respectively depend from independent claims 63 and 71, are allowable over Headley, among other reasons, for depending from allowable independent claims 63 and 71.

Applicants respectfully request that the anticipation rejections of claims 63, 65-69, 71 and 73-76 be withdrawn.

Rejections under 35 U.S.C. 103

To establish a *prima facie* case of obviousness under 35 U.S.C. 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants’ disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP 2143.

Claims 64, 70 and 78 were rejected under 35 U.S.C. 103(a) as being unpatentable over Headley in view of Butt et al. (U.S. Patent No. 6,170,868, hereinafter “Butt”). Applicants respectfully traverse this rejection and request reconsideration of the claims.

The Office Action cites Butt for disclosing a “projectile” and “cold gas”. Applicant does not concede that it would be an “obvious mere substitution” to take parts from the cold gas inflator of Butt and substitute them into the heated gas inflator of Headley, or concede that such would be likely to result in a working device without significant additional research and development beyond a mere substitution. But, Applicant does not need to argue the point because Butt does not add any additional support for the Examiner’s rejection of the independent claims 63 and 71.

The combination of Butt and Headley does not teach or suggest, or provide motivation for, “a unitary aluminum member comprising an aluminum housing and an aluminum closure member integrally formed as a unitary piece” as recited by independent claim 63 or “integrally forming as a unitary piece an aluminum member comprising an aluminum housing and an aluminum closure” as recited by independent claim 71. Thus, dependent claims 64, 70 and 78 are each allowable over the combination of Headley and Butt, among other reasons, for depending from allowable independent claims 63 and 71.

Claims 65 and 72 were rejected under 35 U.S.C. 103(a) as being unpatentable over Headley. Applicants respectfully traverse this rejection and request reconsideration of the claims.

In addition to not being anticipated by Headley, the full claim elements of dependent claims 65 and 72 are not obvious in view of Headley because Headley does not teach or suggest a pressurized container or forming a pressurized container comprising “a unitary aluminum member comprising an aluminum housing and an aluminum closure member integrally formed as a unitary piece.” Accordingly, dependent claims 65 and 72 are

allowable, among other reasons, for depending from independent claims 63 and 71, respectively.

Applicants respectfully request that the obviousness rejections of claims 64-65, 70, 72 and 78 be withdrawn.

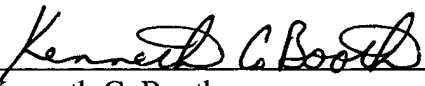
CONCLUSION

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 50-3545. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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By 
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